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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/822,732
Filing Date: March 30, 2001
Appellant(s): BAHAR, REUBEN

MAILED

SEP 18 2007

GROUP 3600

Marvin Glazer
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 08/13/2007 appealing from the Office action
mailed 4/05/97

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

20010034662	Morris	02-2000
6456983	Keyes at al.	12-1999

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2001021923

Atkinson et al.

12-2000

Brown, James J. Judgment Enforcement. 2nd Edition. Aspen Publishers. December 1, 1995. pp. 1-19 - 1-20; 2-6 - 2-8; 4-13; 4-24.15.

Rivkin, DW; Donovan, DF & Legum. B. Financial & Cross-Borders Litigation.

International Financial Law Review. Euromoney Publications. July 1994. pp. 47 - 51.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 – 5, 9 – 10, 16 – 18, 21, 23, 28 – 38, 40 – 45, 47, 50 and 55 - 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morris (US Patent Pub.

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2001/0034662) in view of Brown (Brown, James J. *Judgment Enforcement*. 2nd Edition. Aspen Publishers. December 1, 1995. pp. 1-19 – 1-20; 2-6 – 2-8; 4-13; 4-24.15)

Regarding Claim 1, Morris discloses a method of auctioning bad debts to a plurality of clients, said method comprising the steps of:

- placing select information relating to at least one bad debt (debt accounts – see abstract) on an online auction forum (“..a method and system for facilitating a sale preferably using a computer network.” – see page 1, paragraph 0001), said select information (designated information) comprising at least one distinct bad debt item to be displayed on a bidding site of said online auction forum (“Potential buyers are preferably informed when at least some of the designated information has been found in the searching step. In a preferred embodiment, at least a portion of the presale database is uploaded to a computer readable database accessible via a computer network, which may be either an internal network or a global computer network (e.g., the internet).” – see page 4, paragraph 0062 - establishing that information relating to a bad debt item is communicated to the buyer via the internet. While Morris does not use the word “auction”, Morris does state receiving bids (“...receiving one or more purchase orders...” – see abstract and “...bids...” – see page 4, paragraph 0064) and the seller establishing a minimum reserve price (“...seller's minimum reserve...” –see page 4, paragraph 0064), which the

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Examiner interprets as including an auction process in Morris's disclosure of a sales method);

- establishing at least one bidding site on said online auction forum, said bidding site being associated with a database, said database including said bad debt item. ("...a computer readable database comprising data pertaining to a plurality of debt accounts..." – see abstract);
- classifying (grouping) said bad debt item based on a geographic territory (region, state or ZIP code). ("The step of grouping the lots preferably further includes the step of receiving from the seller at least one criterion upon which the accounts are to be grouped into lots. (e.g., by region, state or two-digit ZIP code). Similarly, for example, country, province, postal code, city code and other international aggregations may be available to international sellers." – see page 4, paragraph 0059); and
- displaying said bad debt item on said bidding site with said geographic territory. ("The method of the present invention further includes the step of searching the computer readable database for information corresponding to information designated by the potential buyers again, in FIG. 6.

Potential buyers are preferably informed when at least some of the designated information has been found in the searching step." – see page 4, paragraph 0062 – establishing that bad debt items can be searched based upon geography, an already disclosed criterion, and such bad debt items are displayed to the buyer.)

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Morris does not teach underlined limitations - said method comprising the steps of:

- classifying said bad debt item based on a geographic territory where said debtor resides.

Utilization of debtor residence information in connection with servicing of debt accounts is old and well known in the art of debt servicing, debt collection and judgment enforcement, as evidenced by Brown (see pp. 1-19 - 20, 2-6 – 2-8 and 4-13). Such information is traditionally maintained in the debtor's files (see pp. 2-07 – 2-08), consulted in determining the financial viability of obtaining a judgment against the debtor (see p. 2-06) and considered an aspect in the legal process of obtaining said judgment against the debtor (see pp. 1-19 – 1-20 and 4-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris by defining geographic territories by location at which the debtor resides, as disclosed by Brown, to allow system users to determine utilize information traditional stored, consulted and utilized in debt servicing.

Regarding Claim 2, Morris discloses a method further comprising the step of:

- requiring a client to select at least one geographic territory, said geographic territory being associated with a debtor. (“..searching the computer readable database for information corresponding to information designated by the potential buyers...” – see abstract – establishing that the client selects a criterion by which to search the bad debt. “...(e.g., by region, state or two-digit ZIP code)...” – see page 4, paragraph 0059 –

establishing that geographic territory is a criterion and it is inherent that the geographic territory assigned to the bad debt is associated with the location of the debtor).

Morris does not teach said method comprising the steps of:

- requiring a client to select at least one geographic territory, said geographic territory being associated with a debtor who resides within said selected geographic territory.

Utilization of debtor residence information in connection with servicing of debt accounts is old and well known in the art of debt servicing, debt collection and judgment enforcement, as evidenced by Brown (see pp. 1-19, 2-6 – 2-8 and 4-13). Such information is traditionally maintained in the debtor's files (see pp. 2-07 – 2-08), consulted in determining the financial viability of obtaining a judgment against the debtor (see p. 2-06) and considered an aspect in the legal process of obtaining said judgment against the debtor (see pp. 1-19 and 4-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris by defining geographic territories by location at which the debtor resides, as disclosed by Brown, to allow system users to determine utilize information traditional stored, consulted and utilized in debt servicing.

Regarding Claim 3, Morris discloses a method, wherein:

- said bad debt is a lot package that includes a pre-grouped assortment of select information relating to at least two bad debts. ("The method of the present invention preferably comprises the principal steps of (a) creating a

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computer readable database comprising data pertaining to a plurality of debt accounts, each account comprising a plurality of data fields; (b) grouping the accounts into at least one lot based upon at least one correlation among the data in the data fields..." – see abstract);

- each bad debt has a debtor. (It is inherent that each bad debt would have a debtor);
- each of said debtors being subject to a geographic territory that is common to all of said debtors in said lot package. ("...(e.g., by region, state or two-digit ZIP code)..." – see page 4, paragraph 0059); and
- said lot package to be displayed as a distinct bad debt item on said bidding site of said online auction forum. ("...(c) searching the computer readable database for information corresponding to information designated by the potential buyers; (d) receiving one or more purchase offers for one or more lots from the potential buyers..." – see abstract – It is inherent that each lot would be displayed prior to accepting purchase offers for each lot).

Morris does not teach underlined limitations - said method wherein:

- each of said debtors being subject residing within a geographic territory that is common to all of said debtors in said lot package.

Utilization of debtor residence information in connection with servicing of debt accounts is old and well known in the art of debt servicing, debt collection and judgment enforcement, as evidenced by Brown (see pp. 1-19 - 20, 2-6 – 2-8 and 4-13). Such

information is traditionally maintained in the debtor's files (see pp. 2-07 – 2-08), consulted in determining the financial viability of obtaining a judgment against the debtor (see p. 2-06) and considered an aspect in the legal process of obtaining said judgment against the debtor (see pp. 1-19 – 1-20 and 4-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris by defining geographic territories by location at which the debtor resides, as disclosed by Brown, to allow system users to determine utilize information traditional stored, consulted and utilized in debt servicing.

Regarding Claim 4 - 5, Morris discloses a method wherein:

- said bad debt item is an apportioned (carved out) bad debt. ("For example, one of the modifications a potential buyer can suggest is some type of carve out that that represents a regrouping of the accounts in the lot." – see page 5, paragraph 0066 – establishing that a bad debt item can be apportioned into another bad debt item);
- containing select information relating to a particular bad debt.
("...communicating to the buyer at least a portion of the information pertaining to the items to be offered for sale..." – see abstract);
- said apportioned bad debt comprising a fractional portion of the monetary value of the whole of said bad debt. ("...(v) the principal value of the portfolio; vi) account balances..." – see page 1, paragraph 0003 - It would be inherent that an apportioned bad debt would comprise an apportioned monetary value in comparison to the non-apportioned bad debt.);

- is to be displayed as a distinct bad debt item on said bidding site of said online auction forum. ("...communicating to the buyer at least a portion of the information pertaining to the items to be offered for sale..." – see abstract - It would be inherent that the apportioned bad debt item would be displayed as a distinct bad debt to prevent confusion with the non-apportioned bad debt item); and
- said select information relating to said bad debt item includes the uncollected monetary value of said bad debt. ("...(v) the principal value of the portfolio; vi) account balances..." – see page 1, paragraph 0003).

Regarding Claims 9 – 10, Morris discloses a method wherein:

- said select information relating to said bad debt item includes a predetermined minimum bid request amount (5% of seller's minimum reserve), said online auction forum not to accept a bid for said bad debt item that is below said predetermined minimum bid request amount set for said same bad debt item. ("Once the seller has released the accounts for sale, the seller will preferably be able to manage each lot or sale manually or choose a variety of policy rules set for each lot or sale. For example, the seller may establish a rule that "all bids under 5% of the seller's minimum reserve will be automatically rejected but all bids above 5% will be reviewed by the seller's user chief." – see page 4, paragraph 0064); and

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- said select information relating to each of said bad debts in said lot package includes the uncollected monetary value of said bad debt. (“...(v) the principal value of the portfolio; vi) account balances...” – see page 1, paragraph 0003).

Regarding Claim 16, Morris discloses a method wherein:

- said select information relating to said lot package includes a predetermined minimum bid request amount (5% of the seller's minimum reserve), said online auction forum not to accept a bid for said lot package that is below said predetermined minimum bid request amount set for said same lot package. (“Once the seller has released the accounts for sale, the seller will preferably be able to manage each lot or sale manually or choose a variety of policy rules set for each lot or sale. For example, the seller may establish a rule that “all bids under 5% of the seller's minimum reserve will be automatically rejected but all bids above 5% will be reviewed by the seller's user chief.” – see page 4, paragraph 0064).

Regarding Claims 17 - 18, Morris discloses a method wherein:

- said select information relating to said apportioned (carved out) bad debt includes the uncollected monetary value of the apportioned fraction of said bad debt. (“For example, one of the modifications a potential buyer can suggest is some type of carve out that that represents a regrouping of the accounts in the lot.” – see page 5, paragraph 0066 – establishing that a bad debt item can be apportioned into another bad debt item. “...(v) the

principal value of the portfolio; vi) account balances...” – see page 1, paragraph 0003 - It would be inherent that an apportioned bad debt would comprise an apportioned monetary value in comparison to the non-apportioned bad debt); and

- said select information relating to said apportioned (carved out) bad debt includes the uncollected monetary value of the whole of said bad debt from which said apportioned bad debt was taken. (“... (v) the principal value of the portfolio; vi) account balances...” – see page 1, paragraph 0003 - It would be inherent that an apportioned bad debt would comprise an apportioned monetary value in comparison to the non-apportioned bad debt).

Regarding Claim 21 and 23, Morris discloses a method wherein:

- said select information relating to said apportioned bad debt includes the fractional share (carved out) that was apportioned from the whole of said bad debt. (“For example, one of the modifications a potential buyer can suggest is some type of carve out that that represents a regrouping of the accounts in the lot.” – see page 5, paragraph 0066); and
- said select information relating to said apportioned (carved out) bad debt includes a predetermined minimum bid request amount (5% of the seller's minimum reserve), said online auction forum not to accept a bid for said lot package that is below said predetermined minimum bid request amount set for said same apportioned bad debt. (“Once the seller has released the

accounts for sale, the seller will preferably be able to manage each lot or sale manually or choose a variety of policy rules set for each lot or sale.

For example, the seller may establish a rule that "all bids under 5% of the seller's minimum reserve will be automatically rejected but all bids above 5% will be reviewed by the seller's user chief." – see page 4, paragraph 0064).

Regarding Claims 28 – 30, Morris discloses a method wherein:

- said bad debt item is selected from said database for display on said bidding site. ("The method of the present invention further includes the step of searching the computer readable database for information corresponding to information designated by the potential buyers again, in FIG. 6. Potential buyers are preferably informed when at least some of the designated information has been found in the searching step." – see page 4, paragraph 0062 – establishing that bad debt items can be searched and such bad debt items are displayed to the buyer.); and
- said bad debt item is selected from said database for display on said bidding site. (see page 4, paragraph 0062).

Morris does not teach underlined limitations - a method wherein:

- said bad debt item is selected from said database for display on said bidding site on the basis of its numerical positioning in relation to other said bad debt items contained in said same database;

- said bad debt item is selected from said database for display on said bidding site on the basis of a random selection process, said random selection process occurring irrespective of the numerical positioning of any said bad debt item contained in said same database; and
- said bad debt item is selected from said database for display on said bidding site on the basis of an order preference of personnel managing said online auction forum.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris and Brown to allow for any organization and search strategy of the database that the inventor desired. *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

Regarding Claim 31, Morris discloses a system comprising:

- a remote host system (see 16, figure 1) connected to a communications network (internet – see 22, figure 2), said remote host-system including:
- (i) a central processing element (CPU - see 28, figure 2) for processing data;
- (ii) a data storage element for storing data (databases - see 30, 36, 40, 32..., figure 2); and
- (iii) software installed for execution on the central processing element (“...a processor operatively connected to the memory, the processor programmed to...” – see Claim 30 – It is inherent that programming would consist of software) and having a database that is associated with at least

one sales site module (interface – figure 2), said database including at least one bad debt item (databases – see 40 and 48, figure 2), said bad debt item being accessible on said associated sales site module in accordance with geographic territory related to a debtor (“...(e.g., by region, state or two-digit ZIP code)...” – see page 4, paragraph), said software configured to run multiple, concurrent, and distinct client sessions on said remote host system (It is inherent that software allows multiple, concurrent (multiple clients can have sessions simultaneously) and distinct client sessions.), and

- (b) an interface element (interface – see figure 2) for providing public access to said software, wherein a plurality of clients may each participate in an online session of said software, running on said remote host system (see 16, figure 1), from client systems connected to said communications network (internet – see 22, figure 2), and wherein each of said plurality of clients may be able to purchase said bad debt item available for sale on said associated sales site.

Morris does not teach underlined limitation - a system comprising:

- a geographic territory where said debtor resides.

Utilization of debtor residence information in connection with servicing of debt accounts is old and well known in the art of debt servicing, debt collection and judgment enforcement, as evidenced by Brown (see pp. 1-19 - 20, 2-6 – 2-8 and 4-13). Such information is traditionally maintained in the debtor's files (see pp. 2-07 – 2-08),

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consulted in determining the financial viability of obtaining a judgment against the debtor (see p. 2-06) and considered an aspect in the legal process of obtaining said judgment against the debtor (see pp. 1-19 – 1-20 and 4-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris by defining geographic territories by location at which the debtor resides, as disclosed by Brown, to allow system users to determine utilize information traditional stored, consulted and utilized in debt servicing.

Regarding Claim 32, Claim 32 recites similar limitations to Claim 1 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 1. Claim 32 differs from Claim 1 in that Claim 32 refers to an “outright sale” rather than an “auction”, however “outright sales” are a well known and notorious method of conducting sales in the industry and it would have been within the level of ordinary skill in the art at the time the invention was made to have modified Morris to conduct an “outright sale” rather than an “auction.”

Regarding Claim 33, Morris discloses a computer-assisted method comprising:

- compiling information (creating database comprising data) relating to at least one bad debt (debt accounts), said bad debt being associated with a debtor (“debtor associated with account” – see p. 5, para. 67). (see abstract);
- the compiled information including a geographic location (geographic origin) of the debt account. (see p. 1, para. 3);

- storing compiled information (data) relating to at least one bad debt (debt accounts) in a computerized database (database). (see abstract);
- allowing a potential purchaser of bad debts (debt accounts) to specify at least one geographical location (geographic origin) of interest. (see p. 1, para. 3. "searching the computer readable database for information corresponding to information designated by potential buyers." – see abstract);
- locating bad debts (debt accounts) stored in the computerized database for which the geographic location (geographic origin) specified (designated) by the potential purchaser corresponds with the stored geographical location (geographic origin). (see p. 1, para. 3. "searching the computer readable database for information corresponding to information designated by potential buyers." – see abstract);
- providing the potential purchaser with information from the computerized database (database) relating to a bad debt (debt account) for which the stored geographic location (geographic origin) corresponds to the geographic location (geographic origin) specified (designated) by the potential purchaser. (see p. 1, para. 3. "searching the computer readable database for information corresponding to information designated by potential buyers." – see abstract. "Potential buyers are preferably informed when at least some of the designated information has been found in the searching step." – see p. 4, para. 0062).

Morris does not teach underlined limitations - a method comprising:

- the compiled information including a geographical location wherein said associated debtor resides;
- locating bad debts stored in the computerized database for which the geographic location specified by the potential purchaser corresponds with the stored geographical location wherein said debtor resides; and
- providing the potential purchaser with information from the computerized database relating to a bad debt for which the stored geographic location wherein the associated debtors reside corresponds to the geographic location specified by the potential purchaser.

Utilization of debtor residence information in connection with servicing of debt accounts is old and well known in the art of debt servicing, debt collection and judgment enforcement, as evidenced by Brown (see pp. 1-19 - 20, 2-6 – 2-8 and 4-13). Such information is traditionally maintained in the debtor's files (see pp. 2-07 – 2-08), consulted in determining the financial viability of obtaining a judgment against the debtor (see p. 2-06) and considered an aspect in the legal process of obtaining said judgment against the debtor (see pp. 1-19 – 1-20 and 4-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris by defining geographic territories by location at which the debtor resides, as disclosed by Brown, to allow system users to determine utilize information traditional stored, consulted and utilized in debt servicing.

Regarding Claim 34, Morris discloses a method further comprising:

- providing the potential purchaser with information compiled in the computerized database relating to a plurality (lot) of bad debts (debt accounts) for which the stored geographical location (geographic origin) corresponds to the geographical location (geographic origin) specified (designated) by the potential purchaser. ("Potential buyers are preferably informed when at least some of the designated information has been found in the searching step." – see p. 4, para. 0062. "The step of grouping the lots preferably further includes the step of receiving from the seller at least one criterion upon which the accounts are to be grouped into lots." – see p. 4, para. 0059).

Morris does not teach underlined limitations - a method comprising:

- providing the potential purchaser with information compiled in the computerized database relating to a plurality of bad debts for which the stored geographical location wherein the associated debtor resides corresponds to the geographical location specified by the potential purchaser.

Utilization of debtor residence information in connection with servicing of debt accounts is old and well known in the art of debt servicing, debt collection and judgment enforcement, as evidenced by Brown (see pp. 1-19 - 20, 2-6 – 2-8 and 4-13). Such information is traditionally maintained in the debtor's files (see pp. 2-07 – 2-08), consulted in determining the financial viability of obtaining a judgment against the debtor (see p. 2-06) and considered an aspect in the legal process of obtaining said judgment

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against the debtor (see pp. 1-19 – 1-20 and 4-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris by defining geographic territories by location at which the debtor resides, as disclosed by Brown, to allow system users to determine utilize information traditional stored, consulted and utilized in debt servicing.

Regarding Claim 35, Claim 35 recites similar limitations to Claim 21 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 21.

Regarding Claims 36 - 37, Morris discloses a method wherein:

- said potential purchaser purchases the bad debt (debt accounts). (see abstract); and
- said purchase is internet-based (see fig. 2).

Regarding Claim 38, Claim 38 recites similar limitations to Claims 33 – 34, in combination, and is therefore rejected using the same art and rationale as applied in the rejection of Claims 33 – 34, in combination.

Regarding Claim 40, Claim 40 recites similar limitations to Claim 17 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 17.

Regarding Claim 41, Claim 41 recites similar limitations to Claims 34 and 36, in combination, and is therefore rejected using the same art and rationale as applied in the rejection of Claims 34 and 36, in combination.

Regarding Claim 42, Claim 42 recites similar limitations to Claim 37 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 37.

Regarding Claims 43 – 44, Morris discloses a system wherein:

- said purchase is conducted via an auction (bidding) process. (p. 6, para. 78 – p. 7, para. 83); and
- said software further includes a purchased items database (sale database), said bad debt item (debt accounts) classified into said purchased items database (sale database) subsequent to being sold. (see p. 5, para. 0075).

Regarding Claim 45, Claim 45 recites similar limitations to Claim 38 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 38.

Regarding Claim 47, Morris discloses a method comprising:

- gathering debt information (data) about a plurality (lot) of uncollected debts (debt accounts), each of said plurality of uncollected debts (debt accounts) being associated with a debtor. ("debtor associated with account" – see p. 5, para. 67.) (see p. 4, para. 59);
- gathering debtor information (data) regarding geographic territories (geographic origin) of debt account. (see p. 1, para. 3);
- storing the gathered debt information (data) in a computer storage element (database). (see abstract);

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- allowing a client to specify (designate) a geography territory (geographic origin) of interest. (see abstract and p. 1, para. 3); and
- providing (informing) said client with information from said computer storage element (database) relating to at least one uncollected debt (debt account) for the geographic territory (geographic origin) specified (designated) by the client. (see p. 4, para. 0062).

Morris does not teach underlined limitations - a method comprising:

- gathering debtor residence information regarding geographic territories in which the debtor associated with each of such uncollected debts resides;
- storing the gathered debt information and gathered debtor residence information in a computer storage element; and
- providing said client with information from said computer storage element relating to at least one uncollected debt for which the corresponding debtor resides within the geographic territory specified by the client.

Rivkin discloses said method wherein:

- a geographic territory (forum) where jurisdiction (personal jurisdiction) is present over a debtor (defendant). (see pp. 47 - 51).

Utilization of debtor residence information in connection with servicing of debt accounts is old and well known in the art of debt servicing, debt collection and judgment enforcement, as evidenced by Brown (see pp. 1-19 - 20, 2-6 – 2-8 and 4-13). Such information is traditionally maintained in the debtor's files (see pp. 2-07 – 2-08), consulted in determining the financial viability of obtaining a judgment against the debtor

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(see p. 2-06) and considered an aspect in the legal process of obtaining said judgment against the debtor (see pp. 1-19 – 1-20 and 4-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris by defining geographic territories by location at which the debtor resides, as disclosed by Brown, to allow system users to determine utilize information traditional stored, consulted and utilized in debt servicing.

Regarding Claim 50, Morris discloses a method wherein:

- said client purchases at least one uncollected debt (debt account).

(see abstract).

Regarding Claim 55, Claim 55 recites similar limitations to Claims 37, 47 and 50, in combination, and is therefore rejected using the same art and rationale as applied in the rejection of Claims 37, 47 and 50, in combination.

Regarding Claim 56, Claim 56 recites similar limitations to Claim 43 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 43.

Regarding Claim 57, Morris discloses a method wherein software further includes at least one sale site module. (It is inherent that Morris has a sale site module and/or subsystem since Morris conducts sales on the Internet).

Regarding Claims 58 – 60, Claims 58 – 60 recite similar limitations to Claim 32 and are therefore rejected using the same art and rationale as applied in the rejection of Claim 32.

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Regarding Claim 61, Claim 61 recites similar limitations to Claim 36 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 36.

Regarding Claims 62 - 64, Claims 62 - 64 recite similar limitations to Claim 38, in part, and is therefore rejected using the same art and rationale as applied in the rejection of Claim 38, in part.

Claims 6, 11, 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morris and Brown, as applied to Claims 1, 3, 4 above, and further in view of Rivkin (Rivkin, DW, Donovan, DF & Legum, B. *Financial & Cross-Borders Litigation*. *International Financial Law Review*. Euromoney Publications. July 1994. pp. 47 - 51).

Regarding Claim 6, Morris discloses a method wherein:

- said select information relating to said bad debt item includes geographic territories. ("...(e.g., by region, state or two-digit ZIP code)..."— see page 4, paragraph).

Morris does not teach under lined limitation - said method comprising the steps of:

- said select information relating to said bad debt item includes the geographic territories in which jurisdiction is present over said debtor.

Rivkin discloses said method comprising:

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- debt item includes the geographic territories in which jurisdiction is present over said debtor. (see pp 47 – 51 – establishing that jurisdiction is required to be obtained to enforce a judgment against a debtor).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris and Brown by also defining geographic territories by court jurisdiction, as disclosed by Rivkin, to allow system users to determine in which jurisdictions that judgments against debtors could be obtained and could be enforced.

Regarding Claim 11, Morris discloses a method wherein:

- said bad debts in said lot package includes geographic territories.
 (“... (e.g., by region, state or two-digit ZIP code)...” – see page 4, paragraph).

Morris does not teach underlined limitation - a method wherein:

- said bad debts in said lot package includes geographic territories in which jurisdiction is present over said debtor.

Rivkin discloses said method wherein:

- said bad debts in said lot package includes geographic territories in which jurisdiction is present over said debtor. (see pp 47 – 51 – establishing that jurisdiction is required to be obtained to enforce a judgment against a debtor).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris and Brown by also defining geographic

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territories by court jurisdiction, as disclosed by Rivkin, to allow system users to determine in which jurisdictions that judgments against debtors could be obtained and could be enforced.

Regarding Claim 19, Morris discloses a method wherein:

- said select information relating to said apportioned bad debt includes geographic territories (“... (e.g., by region, state or two-digit ZIP code)...” – see page 4, paragraph).

Morris does not teach underlined limitation - a method wherein:

- said select information relating to said apportioned bad debt includes geographic territories in which jurisdiction is present over said debtor.

Rivkin discloses said method wherein:

- geographic territories in which jurisdiction is present over said debtor. (see pp 47 – 51 – establishing that jurisdiction is required to be obtained to enforce a judgment against a debtor).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris and Brown by also defining geographic territories by court jurisdiction, as disclosed by Rivkin, to allow system users to determine in which jurisdictions that judgments against debtors could be obtained and could be enforced.

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Claims 8, 13 – 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morris and Brown, as in Claims 1, 3 and 4 above, in further view of Keyes (US Patent 6,456,983).

Regarding Claims 8 and 13 – 15, Morris does not teach underlined limitations - a method wherein:

- said select information relating to said bad debt item includes rating information that is related to the potential for collection of said bad debt item from said debtor;
- said select information relating to each of said bad debts in said lot package includes rating information that is related to the potential for collection of said bad debt from said debtor;
- said select information relating to said bad debts in said lot package includes rating information that is related to the potential for collection of all of said bad debts included in said lot package; and
- said rating information is based on an average of the total sum of a rating figure of each of said bad debts included in said lot package .

Keyes discloses a method wherein:

- said select information relating to said bad debt item includes rating information that is related to the potential for collection of said bad debt item from said debtor. (“...historical delinquent accounts are scored...” – see abstract and “Each delinquent account may be "scored", and the "score" of a particular current delinquent account may be reflective of a

payment which would be projected to be received in relation to this particular delinquent account, based upon a statistical analysis of sorts." – see col. 2, lines 48 – 53);

- said select information relating to each of said bad debts in said lot package includes rating information that is related to the potential for collection of said bad debt from said debtor. (supra);
- said select information relating to said bad debts in said lot package includes rating information that is related to the potential for collection of all of said bad debts included in said lot package (supra); and
- said rating information is based on an average of the total sum of a rating figure of each of said bad debts included in said lot package . ("An average score identifier 26 may be provided if desired for each of the historical portfolio groups 91, which would be the average score 40 of the various historical delinquent accounts 90 contained within the subject historical portfolio group 91." – see col. 7, lines 11 – 15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris and Brown by incorporating into the select information linked to a bad debt item a rating related to the potential for collection, as disclosed by Keyes, to provide bidder with the ability to gauge the possibility that bidder will be able to collect on bad debt item.

Regarding Claims 22, Morris discloses a method wherein:

- said select information relating to said apportioned (carved out) bad debt.

Morris does not teach underlined limitations – a method wherein:

- said select information relating to said apportioned bad debt includes rating information that is related to the potential for collection of said apportioned bad debt from said debtor.

Keyes discloses a method wherein:

- said select information relating to said bad debt includes rating information that is related to the potential for collection of said bad debt item from said debtor. (“...historical delinquent accounts are scored...” – see abstract);

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris and Brown by incorporating into the select information linked to a bad debt item a rating related to the potential for collection, as disclosed by Keyes, to provide bidder with the ability to gauge the possibility that bidder will be able to collect on bad debt item.

Claims 24 – 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morris and Brown, as in Claim 1 above, in further view of Atkinson (US Patent Pub. 2001/0021923).

Morris discloses a method wherein:

- said bad debt item that receives a bidding price equal to or above its predetermined minimum bid request amount will be classified into a purchased items database of said online auction forum. (“In another embodiment, the method of the present invention may preferably include

the steps of recording data relating purchase offers made by potential buyers into a computer readable purchase offer database. This data may preferably be utilized to gauge current and/or historical market demand for the purpose of grouping accounts into lots conforming to the market demand.” – see page 5, paragraph 0074).

Morris does not teach underlined limitations - a method wherein:

- said bad debt item that receives a bidding price equal to or above its predetermined minimum bid request amount at the end of said bidding phase interval will be classified into a purchased items database of said online auction forum; and
- said online auction is conducted utilizing consecutive and concurrent bidding phase intervals, each of said bidding phase intervals enduring for a predetermined time period.

Atkinson discloses a method wherein:

- said online auction is conducted utilizing consecutive and concurrent bidding phase intervals, each of said bidding phase intervals enduring for a predetermined time period. (“In such auctions, various goods or services may simultaneously be placed for auction. In certain situations, however, there is a need to provide two or more auctions falling chronologically one after another. Each such auction falling in chronological order is referred to herein as an ‘auction round.’ “ – see page 1, paragraph 0012).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris and Brown by incorporating bidding intervals, as disclosed by Atkinson, to provide flexibility to organization of the online auctions.

(10) Response to Argument

§ 103 Rejection of Claim 1

Appellant argues that the cited prior art references, Morris and Brown, fail to disclose nor suggest, "classifying said bad debt item based on a geographic territory where said debtor resides" as recited in Claim 1.

Morris, an online debt auction, states:

Debt accounts are complex asset and many factors affect the value of a portfolio of debt accounts. For example, each of the following criteria must be considered to accurately assess a portfolio's value: i) the type of accounts (e.g., credit card accounts, consumer loans, auto loans, commercial loans, mortgages, student loans, retail accounts, telecommunication accounts, utility accounts, bad checks, bankruptcy judgments, etc.); ii) identity of the lending institution or original account holder; iii) the placement level, or the number of agencies that have attempted to collect on the accounts (e.g., at charge-off, after firsts, after seconds, after thirds, etc.); **iv) the geographic origin of the accounts (e.g., country, region, state, city, zip code, etc.);** v) the principal value of the portfolio; vi) account balances; vii) age of the accounts; viii) selling institution; ix) purchase contract terms (e.g., representations and warranties). (emphasis added – p. 1, para. 3).

The accounts 80 will preferably be grouped into lots 78 based upon at least one correlation among the data in the data fields. **The step of grouping the lots 78 preferably further includes the step of receiving from the seller at least one criterion upon which the accounts are to be grouped into lots. (e.g., by region, state or two-digit ZIP code).** Similarly, for example, country, province, postal code, city code and other international aggregations may be available to international sellers. These standard consolidations will then be preferably transferable to new combinations by drag-and-drop interface to create new

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aggregations, depending on the seller's objectives. (emphasis added – p. 4, para. 59).

Examiner asserts that Morris discloses classifying bad debt items (debt accounts) based on a geographic territory (country, region, state city, zip code).

Brown, discussing the legal aspects of debt judgment enforcements, states:

The new proposed statutory language will prove beneficial to the United States by simplifying and expediting many enforcement efforts. **A provision for transferring the action or proceeding to the district of the debtor's residence – in response to a timely request of the debtor – safeguards debtor interests.** In this statement, Representative Fisher is referring to 28 U.S.C. § 3004(b)(2), which provides **a procedure for the debtor, within 20 days after receiving notice of the action or proceeding, to request transfer of the action to the district court for the district in which the debtor resides.** (emphasis added – see p.1-19).

Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris to have classified bad debt items by geographic territories in which the debtor resided, in addition to the geographic territories enumerated by Morris.

Such modification would be motivated by the debt-purchaser's interest in knowing which geographic territories they may be drawn into should debt collection proceed to legal actions and the debtor should seek to transfer legal proceedings to their geographic territory of residence. The debt-purchaser may wish to avoid purchasing debt accounts in which there was a risk of being pulled into a debtor-friendly jurisdiction or may desire to limit the geographic areas in which they may potentially need to fund legal activities.

Brown also states:

Accumulating this information before the complaint is filed may prevent the debtor from successfully hiding assets. A savvy creditor armed with this

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information should take these preliminary steps to prevent the creditor from divesting his assets... **A trip to the debtor's headquarters or residence** and a canvassing of the general area may reveal area banks in which the debtor may have accounts... **Certainly, information concerning the individual debtor's name, address, and Social Security number and his relatives' addresses may serve to help counsel** locate a debtor who absconds with the client's secured collateral (emphasis added – pp. 2-6 – 2-7).

Examiner further asserts that it would have also been obvious to one of ordinary skill in the art to classify bad debt items by virtue of the geographic territory in which the debtor resides by virtue of the fact that the information-gathering phase before debt collection through legal proceedings is a standard and conventional practice in debt collection. Such information would serve to appraise the debt-purchaser of the debtor's residence and the location of possible assets that could satisfy a future legal judgment, allowing a debt-purchaser to consider all the costs and variables that may be involved in debt collection. For example, a debt-purchaser in Florida might not want to purchase a debt account of a debtor that resides in Alaska due to the long-distance nature and possible additional expense of the collection proceedings.

§ 103 Rejection of Claims 31 – 33, 38, 45, 48 and 55

All argument(s) and/or rationale(s) set forth above with respect to earlier addressed claim(s), Claim(s) 1, are hereby incorporated and/or reapplied so as to apply to Claim(s) 31 – 33, 38, 45, 48 and 55 where applicable.

§ 103 Rejection of Claims 3, 34, 38, 47, 55 and 62 - 64

Appellant argues that cited prior art references, Morris and Brown, fail to disclose nor suggest a claim limitation, assumedly “providing the potential purchaser with

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information relating to a plurality of bad debts for which the associated debtors reside in the geographical territory by the potential purchaser.” (see Appeal Brief, p. 28, lines 22 – 25).

Morris states:

The accounts 80 will preferably be grouped into lots 78 based upon at least one correlation among the data in the data fields. **The step of grouping the lots 78 preferably further includes the step of receiving from the seller at least one criterion upon which the accounts are to be grouped into lots. (e.g., by region, state or two-digit ZIP code).** Similarly, for example, country, province, postal code, city code and other international aggregations may be available to international sellers. These standard consolidations will then be preferably transferable to new combinations by drag-and-drop interface to create new aggregations, depending on the seller's objectives. (emphasis added – p. 4, para. 59).

Examiner asserts that Morris discloses providing the potential purchaser with information to a plurality of bad debts (a lot of bad debts) for which the associated debtors are grouped by geographic territory.

Brown, discussing the legal aspects of debt judgment enforcements, states:

The new proposed statutory language will prove beneficial to the United States by simplifying and expediting many enforcement efforts. **A provision for transferring the action or proceeding to the district of the debtor's residence – in response to a timely request of the debtor – safeguards debtor interests.** In this statement, Representative Fisher is referring to 28 U.S.C. § 3004(b)(2), which provides **a procedure for the debtor, within 20 days after receiving notice of the action or proceeding, to request transfer of the action to the district court for the district in which the debtor resides.** (emphasis added – see p.1-19).

Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris to have grouped bad debt items by geographic territories in which their respective debtors resided, in addition to the geographic territories enumerated by Morris.

Such modification would be motivated by the debt-purchaser's interest in knowing which geographic territories they may be drawn into should debt collection proceed to legal actions and the debtor should seek to transfer legal proceedings to their geographic territory of residence. The debt-purchaser may wish to avoid purchasing debt accounts in which there was a risk of being pulled into a debtor-friendly jurisdiction or may desire to limit the geographic areas in which they may potentially need to fund legal activities.

Appellant asserts that several disclosures from the Appellant's specification, such as the grouping of bad debt items makes lower-valued debts more appealing to potential purchasers and provides an example of such. Examiner is uncertain the Appellant's goal in making such an assertion as the claims do not state anything concerning grouping debts by value or attempting to group lower-valued debts to increase their desirability.

§ 103 Rejection of Claims 6, 11 and 19

Appellant argues that cited prior art references, Morris, Brown and Rifkin, fail to disclose nor suggest wherein the bad debt items includes "the geographic territories in which jurisdiction is present over said debtor."

Rifkin, a law review article recounting an overview of the US legal system, states:

Like most courts, US courts are empowered to decide a case only if they have jurisdiction over the defendant. In the US, personal jurisdiction has both a constitutional dimension, applicable in all courts, and a statutory dimension, which varies from state to state.

Under the US Constitution, a court may exercise jurisdiction over a defendant only if there are meaningful, minimum contacts between the

defendant and the forum. In cross-border financial cases, such contacts can arise in two different ways. First, if a defendant does substantial and continuous business in a US state, the courts of that state have jurisdiction over the defendant with respect to any and all claims, whether or not related to the defendant's US business. Secondly, if a defendant commits an act in a US state, the state has jurisdiction over the defendant, but only with respect to claims relating to that act. A court may not constitutionally exercise jurisdiction over a defendant who erratically does business in the US if the claim at issue does not relate to that US business. (emphasis added – p. 2 of DIALOG printout).

Examiner asserts that Morris and Brown disclosed and suggested the classification of bad debt items based upon the geographical territory in which the debtor resided in, as a natural consideration should legal proceedings be utilized to collect upon a bad debt. Furthermore, Examiner asserts that Rifkin discloses that legal proceedings can only be performed within a geographic territory (forum or court jurisdiction) that has jurisdiction (personal jurisdiction) over said debtor (defendant).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Morris and Brown by incorporating a classification of the bad debts based upon the geographic territories that have jurisdiction over the debtor.

Should the debt-purchaser opt to utilize legal proceedings to recover the money owed, the debt-purchaser would need to know which geographic territories would have jurisdiction over the debtor for such legal recovery to proceed. The geographic territory required for legal proceedings would be a component in any debt-purchaser's calculations in whether to purchase such debt as differing costs and differing laws between geographic territories are factors to consider in weighing the attractiveness of attempting debt recovery.

§ 103 Rejection of Claims 8, 13 – 15 and 22

All argument(s) and/or rationale(s) set forth above with respect to earlier addressed claim(s), Claim(s) 1, are hereby incorporated and/or reapplied so as to apply to Claim(s) 8, 13 – 15 and 22 where applicable.

§ 103 Rejection of Claims 24 and 25

Appellant argues that cited prior art references, Morris, Brown and Atkinson, fail to disclose nor suggest wherein the “online auction is conducted utilizing consecutive and concurrent bidding phase intervals enduring for a predetermined time.”

Atkinson states:

In accordance with another embodiment, **the present invention is directed to a method of conducting an auction in at least two rounds**, wherein a determination is made that a bidder may participate in a subsequent auction round if that bidder is a leading bidder in a previous auction round. **In accordance with this aspect of the invention, a first auction round which includes a plurality of bidders is conducted, and one or more of the plurality of the bidders is designated as non-leading bidder(s) in accordance with the conducting of the first auction round.** Thereafter, a second auction round that excludes the non-leading bidders is conducted. In further embodiments, a third auction round which includes only leading bidders from a first or second auction round may be subsequently conducted. (see emphasis added - para. 17)

Atkinson discloses an online auction with is conducted utilizing consecutive bidding phase intervals, such as the first and second auction rounds. Atkinson also discloses an online auction conducted utilizing concurrent bidding phase intervals, in that bidders submit bids concurrently during each auction round.

Furthermore, while Appellant argues that Atkinson does not disclose “a simultaneous auction” such a limitation is not listed in the refuted claim limitations.

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Appellant utilizes the broader claim terminology of "bidding phase interval" which Examiner contends may include an auction in which bids are submitted or merely the bid collection phase of an auction.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jason Borlinghaus (JMB)

September 11, 2007

Conferees:

James Kramer

Alex Kalinowski